

Instructions for Form FTB 3506

Child and Dependent Care Expenses Credit

General Information

Attach the completed form FTB 3506, Child and Dependent Care Expenses Credit, to your Form 540/540A, California Resident Income Tax Return, or Long Form 540NR, California Nonresident or Part-Year Resident Income Tax Return, if you claim the child and dependent care expenses credit.

Registered Domestic Partners (RDP)

RDPs under California law must file their California income tax returns using either the married/RDP filing jointly or married/RDP filing separately filing status. RDPs have the same legal benefits, protections, and responsibilities as married couples unless otherwise specified.

If you entered into a same sex legal union in another state, other than a marriage, and that union has been determined to be substantially equivalent to a California registered domestic partnership, you are required to file a California income tax return using either the married/RDP filing jointly or married/RDP filing separately filing status. For more information on what states have legal unions that are considered substantially equivalent, go to our website at ftb.ca.gov and search for RDP.

For purposes of California income tax, references to a spouse, a husband, or a wife also refer to a California registered domestic partner (RDP), unless otherwise specified. When we use the initials RDP, they refer to both a California registered domestic "partner" and a California registered domestic "partnership," as applicable. For more information on RDPs, get FTB Pub. 737, Tax Information for Registered Domestic Partners.

Round Cents to Dollars

Round cents to the nearest whole dollar. For example, round \$50.50 up to \$51 or round \$25.49 down to \$25. If you do not round, the Franchise Tax Board (FTB) will disregard the cents. This helps process your return quickly and accurately.

A Purpose

You may qualify to claim the 2008 credit for child and dependent care expenses, if you (and your spouse/RDP) paid someone in California to care for your child or other qualifying person while you worked or looked for employment. You must have earned income to do so. If you qualify to claim the credit, use form FTB 3506 to figure the amount of your credit.

If you received dependent care benefits for 2008 but do not qualify to claim the credit, you are not required to complete form FTB 3506. For additional definitions, requirements, and instructions, get federal Form 2441, Child and Dependent Care Expenses.

B Differences in California and Federal Law

The differences between California and federal law are as follows:

- California allows this credit only for care provided in California.
- If you were a nonresident, you must have earned wages from working in California or earned self-employment income from California business activities.
- Federal adjusted gross income must be \$100,000 or less to qualify for the California credit.
- The California credit is a percentage of the federal credit as modified by California law.
- The California credit is refundable.
- Same-sex married couples (SSMCs) and RDPs may file a joint California return and claim this credit. For more information, get FTB Pub. 776, Tax Information for Same-Sex Married Couples, or FTB Pub. 737.

C Qualifications

You may take the credit if **all eight** of the following apply.

1. If you are married or an RDP, you must file a joint return. For an exception, see Section E, Married Persons or RDPs Filing Separate Returns, on page 2.
2. Care must be provided in California for one or more qualifying persons. See Section D, Qualifying Person Defined, on this page.
3. You paid for care so you (and your spouse/RDP) could work or look for work. However, if you did not find a job and have no earned income, you do not qualify for the credit. If your spouse/RDP was a student or disabled, see the instructions for Part III, line 5, on page 4.
4. You (and your spouse/RDP) must have earned income (wages or self-employment income) during the year. See the instructions for Part III, line 4, on page 3 for more information on earned income.

5. You and the qualifying person(s) live in the same home for more than half the year.
6. The person who provided care was not your spouse/RDP, the parent of your qualifying child, or a person for whom you can claim a dependent exemption. If your child provided the care, the child must have been age 19 or older by the end of 2008.
7. You report the required information about the care provider(s) in Part II, line 1, and the information about the qualifying person(s) in Part III, line 2.
8. Your federal adjusted gross income is \$100,000 or less.

D Qualifying Person Defined

Rules for Most People

A qualifying person is:

1. A child under age 13 who meets the requirements to be your dependent as a Qualifying Child. A child who turned 13 during the year qualifies only for the part of the year when he or she was 12 years old.
2. Your spouse/RDP who was physically or mentally incapable of self-care.
3. Any person who was physically or mentally incapable of self-care and either:
 - a. Was your dependent.
 - b. Would have been your dependent except that:
 - i. He or she received gross income of \$3,500 or more.
 - ii. He or she filed a joint return.
 - iii. You, or your spouse/RDP if filing a joint return, could be claimed as a dependent on someone else's 2008 return.

Qualifying Child

A Qualifying Child is a child who meets **all** of the following tests:

- **Relationship Test** – The child must be your son, daughter, stepchild, adopted child, eligible foster child, brother, sister, half-brother, half-sister, stepbrother, stepsister, or a descendant of one of these. An adopted child includes a child who has been lawfully placed with you for legal adoption even if the adoption is not yet final. An eligible foster child must be placed with you by an authorized placement agency or by a court.
- **Age Test** – The child must be under 19 years of age or a full-time student under 24. (For the purposes of qualifying for the Child and Dependent Care Expenses Credit, the child must be under 13.)
- **Residency Test** – The child must live with you for more than half the year.
- **Support Test** – The child must not have provided more than half of his or her own support.
- **Joint Return Test** – The child must not have filed a joint federal or state income tax return with his or her spouse/RDP.
- **Citizenship Test** – The child must be a citizen or national of the U.S. or a resident of the U.S., Canada, or Mexico.

Qualifying Child of More Than One Person -- Tie-Breaker Rules

| If... | Then the child will be treated as the qualifying child of the... |
|---|---|
| Only one of the persons is the child's parent | Parent. |
| Both persons are the child's parent | Parent with whom the child lived with for the longer period of time. If the child lived with each parent for the same amount of time then the child will be treated as the qualifying child of the parent with the highest adjusted gross income. |
| None of the persons are the child's parent | Person with the highest adjusted gross income. |

Divorced, RDP terminated, Separated, or Never Married Parents

For divorced, RDP terminated, separated, or never married parents, special rules apply in determining if your child meets the requirements to be your qualifying person. When parents file separate returns, only one parent qualifies to claim a child as a qualifying person.

Even if both parents pay for child care for the same child, both parents cannot qualify for the credit. Some custody agreements designate which parent is entitled to the credit. However, the designated parent must meet all

the qualifications in Section C, Qualifications, to claim the credit. To verify that your child meets the requirements to be your qualifying person, use the table below.

| RULES FOR DIVORCED, SEPARATED, OR NEVER MARRIED PARENTS | | |
|---|--|---|
| IF | AND | THEN |
| ALL four of the following apply: | | |
| 1. Your child was under 13 and/or physically or mentally incapable of self-care when the care was provided. Children turning 13 during the year qualify only for the part of the year they were 12 years old. | You were the custodial parent and you can claim the dependent exemption credit for the child. | The child is your qualifying person. |
| 2. One of the following applies | You were the custodial parent and under the provisions of a decree of divorce, legal separation, termination of registered domestic partnership, or a written separation agreement, the noncustodial parent claimed the dependent exemption credit, or you signed a statement releasing the dependent exemption credit to the noncustodial parent. | The child is your qualifying person. |
| a. You are divorced, legally separated, or have terminated a registered domestic partnership. | | |
| b. You are separated under a written separation agreement. | | |
| c. You and the other parent lived apart at all times during the last 6 months of the year. (This includes parents never married to each other.) | | |
| 3. One or both parents had custody of the child for more than half the year. | You are not the custodial parent. | The child is not your qualifying person. |
| 4. One or both parents provided more than half the child's support for the year. | | |
| One or more of the four statements above do not apply. | | Use the "Rules for Most People" on page 1, Section D. |

Custodial parent. You are the custodial parent if you had physical custody of your child longer than the other parent during the calendar year. On days where custody is shared, the parent having custody of the child for more than 12 hours is considered to have custody for that day.

E Married Persons or RDPs Filing Separate Returns

Generally, if you are married or an RDP, you must file a joint return to claim the credit. However, you can take the credit on your separate return if:

- You meet all three requirements below:
 - You lived apart from your spouse/RDP at all times during the last six months of 2008.
 - The qualifying person(s) lived in your home more than half of 2008.
 - You provided over half the cost of keeping up your home.
- You meet all the other qualifications in Section C, Qualifications.

F Nonresidents and Part-Year Residents

- You must complete and attach Schedule CA (540NR), California Adjustments – Nonresidents or Part-Year Residents, to your tax return, Long Form 540NR. If Part I of Schedule CA (540NR) is not fully completed, we may disallow your credit.
- Nonresidents must have earned income from California sources to qualify for the credit. A nonresident servicemember's military wages are considered earned income from a California source for the purpose of qualifying for the credit.
- Part-year residents must have earned income while a California resident or earned income from California sources while a nonresident to qualify for the credit.

G Military Personnel

For the purposes of this credit, active duty pay is considered earned income from California sources, regardless of whether the servicemember is domiciled in California.

Example: Sgt. Miller is domiciled in California, but stationed all year in Virginia. Sgt. Miller's only source of earned income is his military pay. His wife, Ann, and their child remained in California. Ann worked in California and they incurred childcare expenses for care provided in California. To qualify for the credit on their joint return, both spouses must have California earned income. Because Sgt. Miller's military pay while serving in Virginia is considered California earned income for purposes of computing the credit, they qualify for the credit on their joint return.

Military Personnel Domiciled Outside of California.

This is additional information you need to complete form FTB 3506.

- Under California Law, your military pay for service in California is considered California earned income for purposes of computing the credit. See instructions for line 4.
- Modified federal adjusted gross income – Use the federal adjusted gross income less your military pay to determine:
 - If your federal adjusted gross income is \$100,000 or less.
 - The decimal amount to use on form FTB 3506, line 7 and line 9.

If using modified federal AGI to compute the Child and Dependent Care Expenses Credit, write "MPA" to the left of the credit amount on line 12 or include it according to your software's instructions.

For more information on Military Personnel, get FTB Pub 1032, Tax Information for Military Personnel.

Specific Line Instructions

Part I, Unearned Income and Other Funds Received in 2008

List the source and amount of **any** money you received in 2008 that is not included in your earned income (line 4 and line 5) but that was used to support your household. Include child support, property settlements, public assistance benefits, court awards, inheritances, insurance proceeds, pensions and annuities, social security payments, workers' compensation, unemployment compensation, interest, and dividends.

Part II, Persons or Organizations Who Provided the Care in California

Line 1

Complete line 1a through line 1g for each person or organization that provided the care in California. Only care provided in California qualifies for the credit. Use federal Form W-10, Dependent Care Provider's Identification and Certification, or any other source listed in the instructions for Form W-10 to get the information from your care provider. If your provider does not give you the information, complete as much of the information as possible and explain that your provider did not give you the information you requested.

If you do not give correct and complete information, we may disallow your credit unless you can show you used due diligence in trying to get the required information.

Lines 1a through Line 1c

Enter your California care provider's complete name (or business name), address, and telephone number (including the area code). If you do not give complete information, we may disallow your credit. We may contact your care provider to verify the information you provide.

If you were covered by your employer's dependent care plan and your employer furnished the care (either at your workplace or by hiring a care provider), enter your employer's name on line 1a. Next, enter "See W-2" on line 1b. Complete line 1c through line 1f. Then leave line 1g blank. But, if your employer paid a third party (not hired by your employer) on your behalf to provide care, you must provide information on the third party on line 1a through line 1g.

Line 1d

For each care provider, check one box indicating whether the care provider is a person or organization.

Line 1e

| If your care provider is | Then enter on line 1e |
|---------------------------|---|
| An individual | The provider's social security number (SSN) or Individual Taxpayer Identification Number (ITIN) |
| Not an individual | The provider's federal employer identification number (FEIN) |
| A tax-exempt organization | "Tax-exempt" |

Line 1f

Enter the complete physical address where the care was provided. A post office box is not acceptable. If you do not provide correct or complete information, your credit may be disallowed. Only care provided in California qualifies for the credit.

Line 1g

Enter the total amount you **actually paid** in 2008 to your care provider for care provided in California. Also include amounts your employer paid to a third party on your behalf. It does not matter when the expenses were incurred. Do not reduce this amount by any reimbursement you received.

We may ask you to provide proof of payment. Cash payments without documentation may not be accepted.

Part III, Credit for Child and Dependent Care Expenses

Line 2

Complete column (a) through column (e) for each qualifying person for whom care was provided in California. If claiming more than three qualifying persons, attach a sheet of paper to your return with the required information and write "see attached." Write your name and SSN or ITIN on the sheet.

Column (a)

Enter each qualifying person's name.

Column (b)

Enter each qualifying person's SSN. Verify that the name and SSN match the qualifying person's social security card to avoid the reduction or disallowance of your credit. If the person was born in, and later died in, 2008, and does not have a SSN, enter "Deceased" in column (b) and attach a copy of the person's birth and death certificates.

Enter the SSNs of the first two qualifying persons on Form 540, line 40 and line 41; Form 540A, line 40 and line 41; or Long Form 540NR, line 47 and line 48.

Column (c)

Enter the qualifying person's date of birth (mm/dd/yyyy) in the space provided or if the qualifying person is disabled (physically or mentally incapable of self-care), check the "Yes" box. Incomplete information could result in a delay or disallowance of your credit.

Column (d)

If you shared custody of the qualifying person(s), enter the percentage of time you possessed physical custody during 2008. If you have 50% or less physical custody of your child, you don't qualify for the credit.

Column (e)

Enter the qualified expenses you incurred and paid in 2008 for the qualifying person(s). Include only the qualified expenses for care provided in California. If the child turned 13 years old during the year, include only the qualified expenses for the part of the year the child was under 13.

Do not include in column (e) qualified expenses:

- You incurred in 2008 but did not pay until 2009. You may be able to use these expenses to increase your 2009 credit.
- You incurred in 2007 but did not pay until 2008. Instead, see instructions for line 11.
- You prepaid in 2008 for care to be provided in 2009. These expenses may only be used to figure your 2009 credit.

A qualified expense does not include the amount you paid for education (school tuition) or the amount you received through a subsidy program.

Qualified Expenses are amounts paid for the care of your qualifying person while you worked or looked for work.

| Qualified expenses include: | Qualified expenses do not include: |
|--|---|
| <ul style="list-style-type: none">The cost of care for the qualifying person's well-being and protection. If care was provided by a dependent care center, the center must meet all applicable state and local regulations.Cost of pre-school or similar program below the kindergarten level.Day camp, even if it specialized in a particular activity, such as soccer. | <ul style="list-style-type: none">Child support payments.Payments made to the parent of your qualifying child.Payments made to your spouse/RDP.Payments made to your child who is under age 19 at the end of the year, even if he or she is not your dependent.Payments made to a dependent for whom you (or your spouse/RDP) can claim a dependent exemption.Expenses paid by or reimbursed through a subsidy program.Cost for education (school tuition) at the kindergarten level and above.Overnight camp. |

Line 4

| Earned income Includes: | Earned income does not include: |
|---|---|
| <ul style="list-style-type: none">Wages, salary, tips, and other taxable employee compensation, as well as, military compensation including compensation for service in a combat zone.Net earnings from self-employment.Strike benefits.Disability payments you report as wages.Active duty pay received by servicemembers of the armed forces is considered earned income regardless of whether the servicemember is domiciled in this state or elsewhere. | <ul style="list-style-type: none">Pensions or annuitiesSocial security paymentsWorkers' compensationInterestDividendsCapital gainsUnemployment compensationPublic assistanceHomeowner and Renter Assistance |

| Nonresidents and Part-Year Residents Only: Earned income from California sources includes: | Earned income does not include: |
|---|---|
| <ul style="list-style-type: none">Wages, salary, tips, and other taxable employee compensation for working in California, as well as, military compensation including compensation for service in a combat zone.Net earnings from self-employment from California business activities.Strike benefits related to California employment.Disability payments you report as California wages.Active duty pay received by servicemembers of the armed forces is considered earned income regardless of whether the servicemember is domiciled in this state or elsewhere. | <ul style="list-style-type: none">Pensions or annuitiesSocial security paymentsWorkers' compensationInterestDividendsCapital gainsUnemployment compensationPublic assistanceHomeowner and Renter Assistance |

Line 5

Spouse/RDP Who Was a Student or Disabled

Your spouse/RDP was a **student** if he or she was enrolled as a full-time student at a school during any 5 months of 2008. A school does not include a night school or correspondence school.

Your spouse/RDP was **disabled** if he or she was not capable of self-care. Figure your spouse's/RDP's earned income on a monthly basis.

For each month your spouse/RDP was a full-time student or disabled, enter on line 5 the larger of the following:

- Your spouse's/RDP's actual earned income for that month.
- \$250 (\$500)**, if you have 2 or more qualifying persons).

If, in the same month, both you and your spouse/RDP qualified as either full-time students or disabled, only one of you receive treatment as having earned income of **\$250 (or \$500)** in that month. For any month that your spouse/RDP was not a full-time student or disabled, use your spouse's/RDP's actual earned income for that month.

Line 7

Use the chart on this page to determine the decimal amount to enter on line 7. Your federal adjusted gross income (AGI) is on Form 540, line 13; Form 540A, line 13; or Long Form 540NR, line 13. For military personnel domiciled outside of California, use your federal AGI less your military pay to determine the decimal amount to enter on line 7.

| If your Federal AGI is: | | The decimal amount on Line 7 is: |
|-------------------------|--------------|----------------------------------|
| Over | But not over | |
| \$0 | \$15,000 | .35 |
| 15,000 | 17,000 | .34 |
| 17,000 | 19,000 | .33 |
| 19,000 | 21,000 | .32 |
| 21,000 | 23,000 | .31 |
| 23,000 | 25,000 | .30 |
| 25,000 | 27,000 | .29 |
| 27,000 | 29,000 | .28 |
| 29,000 | 31,000 | .27 |
| 31,000 | 33,000 | .26 |
| 33,000 | 35,000 | .25 |
| 35,000 | 37,000 | .24 |
| 37,000 | 39,000 | .23 |
| 39,000 | 41,000 | .22 |
| 41,000 | 43,000 | .21 |
| 43,000 | No limit | .20 |

Line 9

Use the chart below to determine the decimal amount to enter on line 9. For military personnel domiciled outside of California, use your federal AGI less your military pay to determine the decimal amount to enter on line 9.

| If your federal AGI from Form 540, line 13; Form 540A, line 13; or Long Form 540NR, line 13 is: | The decimal amount to enter on Line 9 is: |
|---|--|
| \$40,000 or less | .50 |
| Over \$40,000 but not over \$70,000 | .43 |
| Over \$70,000 but not over \$100,000 | .34 |
| Over \$100,000 | Stop. You do not qualify for this credit. |

Line 11

If you had qualified expenses for care that was provided in 2007 that you paid for in 2008, you may be able to increase your credit for 2008. Complete the Worksheet on Side 2 of form FTB 3506. See Worksheet instructions on this page.

Part IV, Dependent Care Benefits

Line 13

Dependent care benefits are:

- Amounts an employer paid directly to you (or your spouse/RDP), or to your care provider for the care of your qualifying person(s), while you worked.
- A day-care facility provided by your employer.
- Generally deducted from your salary.
- Shown in box 10 of your 2008 Form(s) W-2.

Line 14

Enter the amount from federal Form 2441, line 15.

Line 15

If you had a flexible spending account, any amount included on line 13 that you did not receive because you did not incur the expense is considered forfeited. Do not include amounts you expect to receive at a future date.

Line 17

Enter the total of all qualified expenses incurred in 2008. It does not matter when the expenses were paid.

A qualified expense does not include the amount you paid for education (school tuition) or the amount you received through a subsidy program.

Example: You received \$2,000 cash under your employer's dependent care plan for 2008. The \$2,000 is shown in box 10 of your Form W-2. You incurred \$900 of qualified expenses in 2008 for the care of your 3-year-old dependent child. Enter \$900 on line 17, but report the entire \$2,000 on line 13.

For all other lines, follow specific line instructions on the form. For additional information, get federal Form 2441 or federal Publication 503, Child and Dependent Care Expenses.

Line 20

If you are married or an RDP filing a separate return and you meet the requirements of Section E, Married Persons Filing Separate Returns, item 1, then enter your earned income from line 19. On line 24, enter **\$5,000**. If you were married or an RDP and filed a separate return but did not meet the requirements of Section E, Married Persons Filing Separate Returns, item 1, then enter **your spouse's/RDP's earned income**. If your spouse/RDP was a student or disabled in 2008, see the instructions for line 5. On line 24, enter **\$2,500**.

Worksheet – Credit for 2007 Expenses Paid in 2008

You will need a copy of your 2007 California tax return to complete the worksheet.

Line 12 and line 14

You need the 2007 form FTB 3506 instructions to complete the Credit for 2007 Expenses Paid in 2008 Worksheet, on Side 2. Forms are available from our website at ftb.ca.gov or by calling 800.338.0505.

Line 12

Enter the decimal amount from the chart in the line 7 instructions of the 2007 form FTB 3506 that corresponds to your 2007 federal adjusted gross income.

Line 14

Enter the decimal amount from the chart in the line 9 instructions of the 2007 form FTB 3506 that corresponds to your 2007 California adjusted gross income.